

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

AARON WICKS,	:	
	:	
Plaintiff,	:	CIVIL ACTION
	:	
v.	:	No. 00-3754
	:	
WARDEN SHIELDS, <u>et al.</u> ,	:	
	:	
Defendants.	:	

JOYNER, J. JANUARY , 2001

MEMORANDUM AND ORDER

This is a prisoner civil rights case brought by Plaintiff Aaron Wicks ("Plaintiff") against multiple Defendants, including Sergeant Harris ("Harris"), an employee at the State Correctional Institution in Somerset, Pennsylvania ("S.C.I. Somerset") where Plaintiff is currently incarcerated. Presently before the Court is Harris's Motion to Dismiss pursuant to Fed. R. Civ. P. 12(b)(6). For the reasons that follow, we will grant Harris's Motion.

BACKGROUND

All of the facts of this case stem from alleged mistreatment suffered by Plaintiff at the hands of various Defendants who work at or are connected to S.C.I. Somerset. Plaintiff's allegations with respect to Harris are quite brief. Plaintiff alleges that he reported several instances of misconduct by Harris to other prison officials and later testified against Harris at a misconduct hearing. According to Plaintiff, Harris thereafter retaliated against him for reporting her misconduct. Specifically, Plaintiff claims that Harris "came up to and

interrupted a block representative meeting with commissary officials. [Harris] gave a speech where within it she called me names, humiliating and ridiculed [sic] me. She addressed herself to the block [representative] committee members as she spoke." (Compl. at 2). No other factual allegations are made by Plaintiff with respect to Harris.

DISCUSSION

I. Legal Standard

In considering a motion to dismiss, a court must accept as true all facts alleged in a complaint and view them in the light most favorable to the plaintiff. See Morse v. Lower Merion Sch. Dist., 132 F.3d 902, 906 (3d Cir. 1997). A motion to dismiss may only be granted where the allegations fail to state any claim upon which relief can be granted. See id. Moreover, a pro se complaint is held to a more liberal pleading standard than one drafted by an attorney. See, e.g., Gibbs v. Roman, 116 F.3d 83, 86 n.6 (3d Cir. 1997). Notwithstanding these standards, a court "need not credit a complaint's bald assertions or legal conclusions." See In re Burlington Coat Factory Secs. Litig., 114 F.3d 1410, 1429-30 (3d Cir. 1997) (internal quotations omitted).

II. Retaliation Claim

Plaintiff argues that Harris violated his First and Eighth Amendment rights when she interrupted the block meeting and verbally harassed and ridiculed him. These actions were

allegedly taken in retaliation for Plaintiff's prior complaints about Harris's misconduct. Thus, although not stated as such, Plaintiff is attempting to press a 42 U.S.C. § 1983 retaliation claim. In her Motion, Harris contends that Plaintiff has failed to show, as a matter of law, that he was retaliated against, and therefore, has failed to state a necessary element of his claim. We agree.

To state a claim for retaliation under 42 U.S.C. § 1983, a plaintiff must show (1) that he was engaged in protected activity; (2) that the Government responded in retaliation; and (3) that the protected activity was the cause of the Government's retaliation. See Anderson v. Davila, 125 F.3d 148, 161 (3d Cir. 1997); McGrath v. Johnson, 67 F. Supp. 2d 499, 512 (E.D. Pa. 1999). Verbal abuse and harassment do not rise to the level of a constitutional violation. Rivera v. Chesney, No. CIV.A. 97-7547, 1998 WL 639255, at *5 (E.D. Pa. Sept. 17, 1998) ("Verbal harassment or threats by a prison officer to an inmate, without a reinforcing act, will not state a § 1983 claim."); Allah v. Stachelek, No. CIV.A. 95-7593, 1998 WL 281930, at *14 (E.D. Pa. May 29, 1998); Wilson v. Horn, 971 F. Supp. 943, 947-48 (E.D. Pa. 1997), aff'd, 142 F.3d 430 (3d Cir. 1998). Even under the most charitable reading of Plaintiff's Complaint and briefings, Plaintiff has only alleged that Harris interrupted a group meeting and then ridiculed, verbally harassed, and humiliated him in front of the group. Such verbal harassment does not constitute a violation sufficient to state a claim for retaliation under § 1983. See Rivera, 1998 WL 639255, at *5;

Allah, 1998 WL 281930, at *14; Wilson, 971 F. Supp. at 948. As a result, we will grant Harris's Motion to Dismiss.

CONCLUSION

An appropriate order follows.

ORDER

AND NOW, this day of January, 2001, upon consideration of Defendant Sergeant Harris's Motion to Dismiss (Document No. 24), and Plaintiff's response thereto, it is hereby ORDERED that Defendant's Motion is GRANTED and that Sergeant Harris is DISMISSED WITH PREJUDICE from this case.

BY THE COURT:

J. CURTIS JOYNER, J.